

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVO NORDISK A/S,

Plaintiff and Counterdefendant,

v.

AVENTIS PHARMACEUTICALS INC,  
SANOFI-AVENTIS, and AVENTIS  
PHARMA DEUTSCHLAND GMBH,

Defendants and Counterplaintiffs.

C.A. No. 05-645-SLR

**REDACTED - PUBLIC VERSION**

**DECLARATION OF STEPHEN J. VITOLA**

I, Stephen J. Vitola, declare as follows:

1. I am an associate with the law firm of White & Case LLP, counsel for Plaintiff Novo Nordisk A/S, in this litigation. I offer this declaration in support of Novo Nordisk A/S's Answering Brief in Opposition to Aventis's Motion for Attorney Fees.
2. Attached hereto as Exhibit 1 is a true and correct copy of United States Patent No. 6,582,408 (the "'408 patent").
3. Attached hereto as Exhibit 2 is a true and correct copy of Order No. 5: Denying Respondents' Motion for Sanctions, issued January 29, 2007 by the U.S. International Trade

Commission in In the Matter of Certain Insulin Delivery Devices, Including Cartridges Having Adaptor Tops and Components Thereof, Inv. No. 337-TA-572.

4. Attached hereto as Exhibit 3 is a true and correct copy of an amendment dated December 10, 2001 which was submitted to the United States Patent and Trademark Office ("USPTO") during prosecution of the '408 patent, produced bearing production numbers SAN00761663 through SAN00761680.

5. Attached hereto as Exhibit 4 is a true and correct copy of an amendment dated August 15, 2002 which was submitted to the USPTO during prosecution of the '408 patent, produced bearing production numbers SAN00761690 through SAN00761699.

6. Attached hereto as Exhibit 5 is a true and correct copy of a Notice of Allowability issued by the USPTO on May 15, 2002, produced bearing production numbers SAN00761712 through SAN00761714.

7. Attached hereto as Exhibit 6 is a true and correct copy of U.S. Patent No. 5,688,251.

8. Attached hereto as Exhibit 7 is a true and correct copy of U.S. Patent No. 4,973,318.

9. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the deposition transcript of Soren Steinfeldt-Jensen taken December 8, 2006.

10. Attached hereto as Exhibit 9 is a true and correct copy of Patent Cooperation Treaty patent publication number WO 96/02290.

11. Attached hereto as Exhibit 10 is a true and correct copy of European Patent Number EP 0 688 571.

12. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from the deposition transcript of Marc Began taken October 3, 2006.

13. Attached hereto as Exhibit 12 is a true and correct copy of excerpts from the deposition transcript of Robert Smith taken December 15, 2006.

14. Attached hereto as Exhibit 13 is a true and correct copy of a document produced bearing production numbers SAN00575609 through SAN005756336.

15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the deposition transcript of Dr. Nils Basso taken November 29, 2006.

16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the Rule 26(a)(2) Report of David Lipson, Ph.D served on January 15, 2007.

17. Attached hereto as Exhibit 16 is a true and correct copy of U.S. Patent No. 6,562,011 (the "'011 patent").

18. Attached hereto as Exhibit 17 is a true and correct copy of an office action issued January 17, 2001 by the USPTO during prosecution of the '011 patent, produced bearing production numbers SAN00828295 through SAN00828300.

19. Attached hereto as Exhibit 18 is a true and correct copy of U.S. Patent No. 6,146,361.

20. Attached hereto as Exhibit 19 is a true and correct copy of U.S. Patent No. 4,936,833.

21. Attached hereto as Exhibit 20 is a true and correct copy of U.S. Patent No. 6,004,297.

22. Attached hereto as Exhibit 21 is a true and correct copy of a document titled, "NovolinPen Insulin Delivery Device, Instructions for Use", produced bearing production numbers NN000282 through NN000312.

23. Attached hereto as Exhibit 22 is a true and correct copy of a document titled, "NovoPen II, Instruction Manual", produced bearing production numbers SAN00976020 through SAN00976028.

24. Attached hereto as Exhibit 23 is a true and correct copy of U.S. Patent No. 5,968,021.

25. Attached hereto as Exhibit 24 is a true and correct copy of a letter to Stephen J. Vitola from Eric Moran, dated March 16, 2007.

26. Attached hereto as Exhibit 25 is a true and correct copy of excerpts from the deposition transcript of John Harrington taken January 24, 2007.

27. Attached hereto as Exhibit 26 is a true and correct copy of excerpts from the deposition transcript of Volker Keuth taken November 14, 2006

28. Attached hereto as Exhibit 27 is a true and correct copy of excerpts from the transcript of a hearing held before the Honorable Sue L. Robinson on April 11, 2007.

29. Attached hereto as Exhibit 28 is a true and correct copy of excerpts from the deposition transcript of Stefan Schwarz taken November 15, 2006.

30. Attached hereto as Exhibit 29 is a true and correct copy of excerpts from the deposition transcript of Bernard Sams taken June 20, 2007.

31. Attached hereto as Exhibit 30 is a true and correct copy of an Order issued by the U.S. District Court for the District of New Jersey in Sanofi-Aventis U.S. LLC v. Novo Nordisk, Inc., Civil Action No. 06-1369 (MLC), dated June 22, 2006.

32. Attached hereto as Exhibit 31 is a true and correct copy of the Declaration of Jane Conlon-Werner.

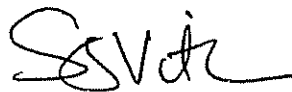
33. Attached hereto as Exhibit 32 is a true and correct copy of excerpts from the Expert Report of Charles E. Clemens served on February 22, 2007.

34. Attached hereto as Exhibit 33 is a true and correct copy of a document produced bearing production numbers SAN00063816.096-SAN00063816.100.

35. Attached hereto as Exhibit 34 is a true and correct copy of Patent Cooperation Treaty patent publication number WO 95/13842.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, NY, on October 9, 2007.

A handwritten signature in black ink, appearing to read 'SJVola', is written above a horizontal line.

Stephen J. Vitola

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE


CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2007, I caused to be served by hand delivery the foregoing document and electronically filed the same with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

Steven J. Balick, Esquire  
John G. Day, Esquire  
Lauren E. Maguire, Esquire  
Ashby & Geddes  
500 Delaware Avenue  
P.O. Box 1150  
Wilmington, DE 19899

I hereby certify that on October 16, 2007, I have sent by Federal Express the foregoing document to the following non-registered participants:

Paul Berghoff, Esquire  
McDonnell Boehnen Hulbert  
& Berghoff LLP  
300 South Wacker Drive  
Chicago, Illinois 60606-6709

  
Anne Shea Gaza (#4093)  
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